

SEBASTIAN NEWTON-TAPIA, OSB # 043761
LANE COUNTY OFFICE OF LEGAL COUNSEL
125 East Eighth Avenue
Eugene, OR 97401
Telephone (541) 682-3728 FAX (541) 682-3803
E:Mail: Sebastian.NEWTON-TAPIA2@co.lane.or.us
Of Attorneys for Defendant former Sheriff Russel Burger

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

CHARLES WILSON,

Plaintiff,

v.

LANE COUNTY SHERIFF ROSS BURGER; in
his individual and official capacities;

Defendant.

Case No. 6:10-CV-06224

**DECLARATION OF LARRY BROWN
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

I, Larry Brown, declare as follows:

1. I am a Lane County Sheriff Deputy. I have been employed by the Lane County Sheriff's Office for over 16 years. I currently serve as Lieutenant at the Lane County Adult Correctional facility, herein LCAC.
2. I am aware of how records are kept and how records are required to be made within the LCAC. I have access to all records kept at the LCAC. I have reviewed the documents marked Exhibit A, pages 1-5 attached hereto. They are true and accurate copies of the originals. These records are kept in the course of regularly conducted activity. They are

made by the regularly conducted activity as a regular practice. The records were made at or near the time of the reported event by a person with knowledge of the event.

3. Upon review of the records kept at the LCAC facility, I know that Charles Wilson (plaintiff) was lodged at the LCAC on April 19, 2010 at approximately 10:25 AM and released April 20, 2010 at approximately 5:15 PM.
4. Upon review of the records kept at the LCAC, I know that plaintiff was seen by medical staff on April 19, 2010 at approximately 10:30 AM and reported pain in his shoulder and knee due to a pre-existing condition. Plaintiff did not report that he was injured during his arrest. See Exhibit B, which is a record made by the regularly conducted activity as a regular practice. The record was made at or near the time of the reported event by a person with knowledge of the event.
5. Upon review of the records kept at the LCAC facility, I know that the intake holding cell where plaintiff was lodged for the first two hours of his incarceration had a working collect-call telephone.
6. Upon review of the records kept at the LCAC facility, I know that inmates usually do not get "day room time" on the day they are arrested. Although LCAC staff has, on occasion, given inmates an opportunity to use a phone when they did not have day room access scheduled on a particular day, due to unacceptable behavior on April 19, 2010 plaintiff lost the opportunity to access the phone for the remainder of that day. Even though, plaintiff did not have unlimited access to a collect-call telephone on April 19th and 20th, plaintiff would have been given the opportunity to call an attorney if that request had been made. Plaintiff never asked to call an attorney.

7. Upon review of the records kept at the LCAC facility, I know that plaintiff lost the opportunity to use the phone on April 19, 2010 because he ripped apart his inmate manual and repeatedly pounded against the cell door after being instructed to stop.
8. The Sheriff is not personally informed of every pre-trial detainee lodged in the LCAC. I would not expect for the Sheriff to be notified of any aspect of plaintiff's incarceration, and it does not appear that he was ever aware of any action taken by any Lane County Sheriff's Deputy in this case. I am aware of the type of documentation that is forwarded to the Sheriff for his review. No such documentation exists. Although Russel Burger was the Sheriff when plaintiff was incarcerated at the LCAC, Burger is not currently the Sheriff for Lane County.
9. I have reviewed logs kept in the ordinary course of business concerning complaints of abuse and mistreatment by jail staff. We have no such report by Charles Wilson, except for the present Complaint.
10. If Plaintiff had told anyone in the LCAC that he had been assaulted by a Sheriff's Deputy, I know that all staff is aware of their obligation to report such an incident, which then would have been fully investigated. No such report or investigation exists.

///

///

///

///

///

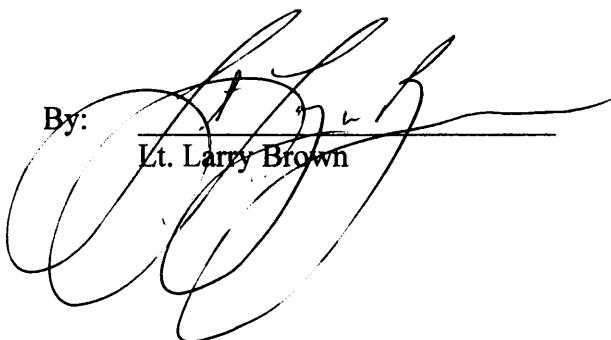
11. The Sheriff's Office forwards any writing that might constitute a tort claim notice to the Office of Legal Counsel. The Sheriff's Office maintains copies of these notices as well. No such notice was provided to the LCAC by Charles Wilson.

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND THIS DECLARATION IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

Executed this 28th day of June, 2012.

By:

Lt. Larry Brown

A handwritten signature in black ink, appearing to read "Larry Brown", is written over a horizontal line. To the left of the line, the word "By:" is printed in a small, sans-serif font. Below the line, the name "Lt. Larry Brown" is printed in a slightly larger, bold, sans-serif font.

INCIDENT REPORT

LANE COUNTY SHERIFF'S OFFICE

Reported by:	Officer Name	Date
Date of Offense		
Offense Description		
Offense Category		
Offense Type		
Hate Crime		
BANG		

RELAT. REPORTS

- Incident
- Accident
- Custody
- Citation
- Prop./Evidence
- Supplemental
- Dull Investigation

Page 1 of 4

2. Case Number 10-8215

3. Source DISPATCHED

VICTIM		1. Incident & ORS No. <u>163.75P</u>	6. Report Date <u>4-19-10</u>		7. Time <u>1725</u>	8. Occurred Date <u>4-17-10</u>	9. Time <u>0700</u>	10.			
		Violation staying Protective order									
		82623 Simonsen Rd Eugene OR 97405									
		10. Name <u>Snedegar Michael Lee SR.</u>	First	Middle							
		14. Res. Address <u>82623 Simonsen Dr Eugene</u>	City	State	Zip <u>OR 97405</u>	16. Res. Phone <u>541-802 4569</u>	18. Bus. Phone <u>PA</u>	12. Race/Sex <u>W/M</u>			
		17. Bus. Address <u>N/A</u>	City	State	Zip	19. Injured Yes	20. Where Taken <u>N/A</u>	13. Work Hours <u>N/A</u>			
		22. Name <u>NA</u>	First	Middle				21. NOT CONT'D			
		26. Address <u>NA</u>	City	State	Zip	27. Res. Phone	28. Bus. Phone	29. Relationship			
		30. Name <u>NA</u>	First	Middle							
		34. Address	City	State	Zip	35. Res. Phone	36. Bus. Phone	37. Relationship			
		40. Color (Top) <u>black</u> (Solid or Bottom) <u>black</u>	41. Lic. #	State	Exp.Yr.	Type	Veh.Yr.	Make	Model	Style	
		01 black 05 green 08 tan 02 blue lime beige 09 white aqua olive cream turquoise 06 grey 10 yellow brown 07 red 11 orange bronze copper pink gold 04 purple maroon 12 unknown	42. 1 keys in vehicle 2 not drivable 3 stereo tape 4 CB radio 5 special antenna 6 vinyl top 7 loud muffler 8 custom wheels	1 delinquent payments 2 rust/primer spots 3 level altered 4 decorative paint 5 damage to front 6 damage to rear 7 damage to right 8 damage to left	1 sticker in window 2 sticker/dcal on bumper 3 sticker/dcal on body 4 painted inscription on body	SPECIAL FEATURES					
		44. Reg. Owner Name <u>Wilson Charles Waffen</u>	First	Middle	45. Phone	46. Address	47. DOB	48. Notified Date/Time	49. By Whom I.D.#		
		50. Name <u>Wilson Charles Waffen</u>	First	Middle		51. DOB/Age <u>3-9-40</u>	52. AKA <u>N/A</u>				
		53. Address <u>82619 Simonsen Dr Eugene</u>	City	State	54. Race/Sex <u>W/M</u>	Ht. <u>5'10</u>	Wt. <u>135</u>	Hair <u>GRY</u>	Eyes <u>HZL</u>	56. Composite Yes/No	
		57. Clothing Description <u>UNK</u>			58. Name <u>NA</u>	First	Middle	59. DOB/Age	60. AKA		
		61. Address <u>NA</u>	City	State	62. Race/Sex	Ht.	Wt.	Hair	Eyes	63. Photo- graph Yes/No	64. Composite Yes/No
		65. Clothing Description <u>NA</u>									
56. Suspect Description (Physical)											
57. Suspect Description (Clothing)											
58. Suspect Description (Accessories)											
59. Suspect Description (Tools)											
60. Suspect Description (Other)											
61. Suspect Description (Vehicle)											
62. Suspect Description (Markings)											
63. Suspect Description (Fingerprints)											
64. Suspect Description (DNA)											
65. Suspect Description (Blood)											
66. Additional Information											
67. Reporting Officer <u>S. Fentress</u> I.D.# <u>10</u>											
68. Assisting Officer <u>WILSON D74</u> I.D.#											
69. Date & Time Prepared <u>4-19-10</u> <u>0130</u>											
70. Approved By <u>Exhibit A page 1 of 5</u> I.D.#											

CONTINUATION REPORT

LANE COUNTY SHERIFF'S OFFICE

 PAGE 2 OF 4
 CASE NUMBER 10-2216

CONTACTED: Ogden, Tom Edwin DOB: 03/23/29
 82705 Simonsen Rd Eugene, Or 97405
 541-342-7864

INVESTIGATION: On 04/18/10 at 1804 hours I was dispatched to 82623 Simonsen Dr in Eugene for a Violation of Stalking Order. I contacted records and verified that Michael Lee Snedegar had a valid Stalking Order against Charles Warren Wilson. The stalking order was served on 04/05/10 at 1730 hours. The stalking order states that Wilson can't block, obstruct, or alter water flow to Snedegar's property.

I called Snedegar and received a statement. I tried to contact Wilson at his residence but there was no answer. I contacted Snedegar at his residence and he told me that on Saturday morning 04/17/10 at around 7-7:30 am he attempted to use his water. At that time he had no pressure and water was just dripping out. Snedegar went to his 1500 gallon holding tank and observed no water in the tank. Snedegar believes the water was shut off by Wilson.

Snedegar's property shares a water line with 3 other properties. The water line goes through Tom Edwin Ogden's property, then Wilson's, and ends at Snedegar's property. Snedegar has an easement along the waterline through the others properties. Ogden owns 50 percent, Wilson ownes 25 percent, and Snedegar owns 25 percent.

Snedegar usually walks the water line to find the reason for the water problem such as a broken line. This time Snedegar wasn't allowed to check the water line because Wilson has an elder abuse protective order against Snedegar which orders Snedegar to stay off Wilson's property. Snedegar has previously found his water turned off several times on the back side of Wilson's residence by the way of cut of valves.

Snedegar told me that Saturday morning 04/17/10 he had contacted Ogden and asked him if there were any problems with the water line. Ogden told Snedegar that he wasn't having any problems with his water.

Snedegar believed that Ogden had a way of contacting Wilson. I contacted Ogden at his residence. Ogden informed me that the spring that feeds the 3 properties was on BLM land and that he is the caretaker of the water line. Ogden fixes breaks prior to his residence and also on Wilson's and Snedegar's properties.

- Ogden volunteered to show us the water line and to check for any possible breaks. I informed Ogden that he didn't have to do that and that it wasn't his responsibility. Ogden said he wouldn't mind. I followed Ogden to where the water line crossed the dirt road to Wilson's property. I then followed Ogden across Wilson's property looking for any breaks in the line. We observed no breaks in the water line between the road and Wilson's residence.

I tried to make contact with Wilson at his residence but no one answered the door.

Reporting Officer S. F.C. 11	ID.#	Assisting Officer 11-11-11-11-11	ID.#	Date & Time Prepared 04/19/10 0130	Exhibit A, page 2 of 5 12
---------------------------------	------	-------------------------------------	------	---------------------------------------	------------------------------

CONTINUATION REPORT

LANE COUNTY SHERIFF'S OFFICE

PAGE 3 OF 4
CASE NUMBER 10-2215

Ogden showed me where the cut-off valves were on the backside of Wilson's house. There were 5 cut-off valves and 1 of them was turned off. I turned it back on and heard water enter the line. I followed Ogden up the water line between Wilson's residence and Snedegar's residence continually looking for any breaks in the line. We observed no breaks between Wilson's residence and Snedegar's residence.

I contacted Snedegar and asked him to check his water. Snedegar advised me that the water was running again.

I have probable cause to arrest Charles Warren Wilson DOB 3/9/40 for Violation of Stalking Order. I have completed a probable cause affidavit and attempt to locate form; which were turned in with this report.

Snedegar advised he and Wilson have a hearing on 04/19/10 to contest the orders. I sent Sgt Weir, Sergeant of transport, an email advising him of probable cause to arrest Wilson.

STATEMENT:

Snedegar, Michael Lee

I contacted Snedegar at his residence and Snedegar advised me that he had no water. Snedegar said when he woke up on Saturday April 17, 2010 at about 7-7:30 am he had no water. Snedegar has a 1500 gallon holding tank which was empty and estimates that he hasn't had water since the Tuesday or Wednesday prior to 04-17-10.

Snedegar stated that he bought his property from Wilson 5 years ago and with the purchase received water rights and easement along the water line. At that time Ogden owned 50 percent and Wilson owned 50 percent. When Wilson sold the property to Snedegar he also gave 25 percent of his water rights to Snedegar. Snedegar stated that he has had problems with Wilson since he moved in. Snedegar stated that Wilson has turned off his water about 10 times in the last 5 years; mostly when he leaves town but believes Wilson also does it to be mean. Because of the issues Snedegar was having he went to the courthouse and got a Stalking order against Wilson. At the same time Wilson got an elder abuse protective order against Snedegar.

Snedegar usually walks the water line to insure there are no breaks in the water line. Snedegar isn't allowed on Wilson's property due to the order against him from Wilson.

Snedegar contacted Ogden first thing on Saturday April 17, 2010 once he noticed he had no water. Ogden told Snedegar that he had no problem with water at his residence. Snedegar believes that Wilson turned off his water.

Reporting Officer S. FO <i>J. J.</i> <i>GEKI</i> '04	L.D.# <i>GEKI '04</i>	Assisting Officer <i>WESCON #74</i>	L.D.# <i>#74</i>	Date & Time Prepared 04/19/10 0130	Exhibit A, page 3 of 5 <i>(D) 17)</i> WHAT A LITTLE ZONE IN
--	--------------------------	--	---------------------	---------------------------------------	---

CONTINUATION REPORT

LANE COUNTY SHERIFF'S OFFICE

 PAGE 4 OF 4
 CASE NUMBER 10-2215

STATEMENT: Ogden, Tom Edwin

I contacted Ogden at his residence and confirmed with him that he had good water pressure at his house. Ogden told me the spring that feeds the 3 properties was on BLM land about 1 mile away. The water line goes from the spring through Ogden's property then Wilson's and ends on Snedegar's property. Ogden also does all the repairs on the water line between his property and the spring. Ogden also does most of the repairs between his residence and Wilson's and Snedegar's residence.

He told me that he has free access to walk the line to look for breaks in the line. Ogden volunteered to walk the line with me. I told him that he didn't have to do that and it wasn't his responsibility. Ogden told me that he didn't mind doing it.

FOLLOW-UP: None: pending contact with Wilson

REFERRAL: None

DISPOSITION: Suspended

In the Circuit Court of the State of Oregon for Lane County

THE STATE OF OREGON,

Plaintiff,

vs.

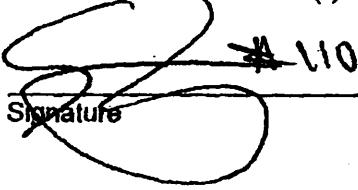
Wilson, Charles Warren DOB 03/09/40,
Defendant.

Booking no.: _____
Agency no.: 2010-2215

Affidavit of Probable Cause
and
Order

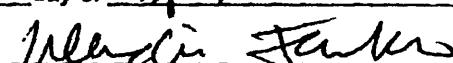
STATE OF OREGON)
)
) ss.
County of Lane)

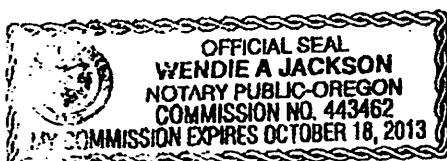
I, Stacy Fenley, am a deputy sheriff employed by the Lane County Sheriff's Office, where I have been so employed for approximately 9 ½ years. My attached 4 page police report is incorporated herein as though fully set forth at this point. If I were called to testify under oath my testimony would be consistent with said report, and I believe the evidence described therein establishes probable cause to believe that Charles Warren Wilson, committed the crime(s) of violation stalking order in Lane County, Oregon. I believe I have probable cause to arrest Charles Warren Wilson for the crime(s) of violation stalking order.


Signature

Stacy Fenley Deputy Sheriff
NAME and TITLE (printed)

SUBSCRIBED AND SWORN TO before me this 19 day of April, 2010

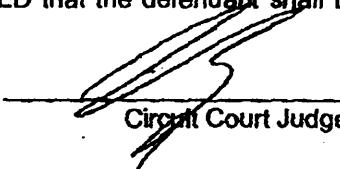

WENDIE A JACKSON
NOTARY PUBLIC FOR THE STATE OF OREGON
My Commission Expires:



ORDER:

THIS MATTER came before the Court on the 19 day of April, 2010, for a determination of probable cause existing to arrest the Defendant. The Court having found probable cause; IT IS HEREBY ORDERED that the defendant shall be detained pending further proceedings in the Court.

DATED this 1 day of April, 2010


Circuit Court Judge

INITIAL ASSESSMENT FORM
HEALTH SERVICES SCREENING CONTACT

DATE TIME	Allergies - Class none	SIGNATURE
4-19-10 ~1030	<p>S. Code 3 Slumps to floor about 30 seconds or so after being housed in Cellar - 2nd court appearance. That resulted in being brought to jail - Is lying prone on floor between Sentences - legs out straight - and both hands under his cheek - that is next to the floor. He is verbally responsive - opens his Eyes when asked & pupils are equal - and is able to tell the nurse he took his AM blood pressure meds - that sometimes he faints (Dx for cause) - Is able to help Deputies to sit up in chair.</p> <p>O 148/88 P-102 R-12-14 chest distress - moves all Extremities well - requests a Vicodin for R shoulder</p> <p>D knee pain - "I take it (Pain)" "frequency Green" "I need a new knee" "When needed" "I would like a place to rest"</p> <p>A- ?? Claimed HTN, Depression - knee + Shoulder pain ent AI & moved to Intake for 30 min medical Observation</p> <p>MH to See.</p> <p>~1230 1300 C/O Chest pain - when medical arrives to Eval - States he is much better OK - no assist needed</p> <p>~1330 When nurse arrives to have Inmate Sign ROI Roseburg VA - He Claims to be having a Stroke - Then is unable to speak - but then answers a question yes - then stops speaking again - but writes a note demanding a phone call now -</p> <p>Is able to stand - then closes eyes when asked to and begins to fall back wards but is able to catch himself and does not fall - Peripheral Vision OK - Diplopia - OJ - & drooling & facial sag.</p> <p>O B/P 142/91 - P-104 - R-14 - C/B 99 - able to drink O2 Sat 97%</p> <p>P- Is able to go to PTS now - States has better now? - Answered No</p>	<p>② Injuries noted</p> <p>② Claim to Seizure Disorder</p>

LANE COUNTY ADULT CORRECTIONS	Sign ROI to VA well	NAME: Wilson, Charles Warren
MEDICAL DEPARTMENT	B/P V QD x 1 clamp	AIRS: 0118749 DOB: 3-9-40
11	#1	C77-272

CERTIFICATE OF SERVICE

I, Sebastian Newton-Tapia, hereby certify that I am the attorney for the Defendants herein; that I served the Plaintiff the foregoing **DECLARATION OF LARRY BROWN IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**, on the 3rd day of July, 2012, by placing a duly certified copy thereof in a sealed envelope plainly addressed as follows:

Charles Wilson
PO Box 71764
82619 Slimonsen Road
Eugene, OR 97401

XX Postage prepaid and deposited in the United States Post Office at Eugene, Oregon.

XX CM/ECF.

 Delivered personally by me or by a member of my staff.

 Caused to be delivered by facsimile transmission, fax #: _____.



Sebastian Newton-Tapia, OSB# 043761
Lane County Office of Legal Counsel
125 East Eighth Avenue
Eugene, OR 97401
541/682-3728
541/682-3803 fax
sebastian.newton-tapia2@co.lane.or.us
Of Attorneys for Defendants